

Office of Professional Accountability Review Board
First Quarter Report
September 2002

I INTRODUCTION

In the spring of 2002, Seattle took a major step in response to long-standing community demands for better police accountability. Originally legislated in December 1999, City Council appointed the Office of Professional Accountability Review Board (the "Board") on May 6, 2002. The Board is defined by Seattle Municipal Code §3.28.900 and the Interest Arbitration Award between the City and the Seattle Police Officer's Guild (SPOG) dated November 26, 2001.

The ordinance directs the Board to make quarterly reports to the City Council, Chief of Police, City Attorney, Mayor and City Clerk for filing as public record. The ordinance further specifies the topics to be covered in each report, including:

- overall implementation of the Office of Professional Accountability (OPA);
- number of closed completed cases reviewed by the Board;
- number of complaints received by the OPA, by category and nature of allegation;
- percentage of complaints sustained and not sustained;
- patterns of complaints;
- nature of disciplinary actions;
- number of officers who have received multiple sustained complaints within one year;
- role of the OPA Auditor in requesting further investigation of cases;
- discussion of any appeals to the Board;
- other issues, problems or trends noted by the Board;
- number of follow-up investigations requested by the Auditor;
- number of follow-up investigations completed or denied by the Department;
- recommendations on topics relating to officer training, including specialized training for investigators;
- recommendations regarding policy or procedures;
- review of the OPA Director's involvement in community outreach.

The Board presents its first quarterly report (May 1 – July 31, 2002) covering a far narrower focus than called for in the ordinance. All three board members felt it essential to spend these early months in building a solid foundation of mutual knowledge and self-education. We are now prepared for systematic oversight of the OPA in the months ahead.

The Award specified a three-person board: one person with law enforcement experience, one with substantial community involvement, and one member of the bar. As our Fact Sheet describes, the current members do indeed reflect these criteria. Not surprisingly, each of us brings different strengths to the table, based upon our very different backgrounds. As a result, our discussions have been lively, challenging and productive. As envisioned by the Council and mandated by the governing ordinance, the breadth of our views and experiences strengthens our ability to engage in dialogue with diverse members of the community, the city, and the police.

In summary, this initial report covers the following areas:

- Board Operations
- Governmental Context

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- Community Outreach
- Outreach with the Police
- Self-Education
- Future Plans
- Observations
- Points of Interest

II FOUNDATION-BUILDING

Board Operations

The Board spent its first weeks on team building and developing an efficient and effective working arrangement. We elected John C. Ross our chair, and under his leadership devoted several meetings to determining our ground rules, setting forth our different working styles, and honing our team-building skills. We developed our Mission Statement and Fact Sheet, which sets out our mission, goals and objectives. We also developed forms to facilitate our community outreach. These documents are available to the public. (Attachment #1)

Administrative housekeeping consumed much of these early weeks, including a wide variety of staff orientations, ethics and technology training, human resources paperwork, and meetings with city attorneys regarding the constraints of the Open Meetings Act and document retention policies.

We are functioning with temporary staff assistance arranged through City Council's Legislative Department. This has worked well for these early months, thanks to the excellent support of the department's Manager of Administrative Services, Barbara Hadley, and her staff. We wish particularly to commend Patricia Robledo, Administrative Specialist, who has done an able job juggling conference rooms, divergent schedules and other challenging logistics.

Governmental Context

We requested briefings from the many staff people and other key players who are knowledgeable in police/community issues, both currently and over the past years. Briefings held include:

- Jim Compton and Peter Harris (legislative history underlying the establishment of the entire OPA office and the Board);
- Bob Scales (racial profiling);
- Sam Pailca (operations and issues of the OPA);
- Judge Terrence Carroll (operations and issues of the OPA Auditor);
- Edsonya Charles (issues of interest to Mayor Greg Nickels);
- Dr. Hubert Locke (history of police accountability reports);
- Chief Gil Kerlikowske (Seattle Police Department);
- Ken Saucier, SPOG President, and various members of the SPOG Board of Directors;
- Larry Gossett (King County Councilmember).

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Community Outreach

Our community outreach mission is threefold:

1. To introduce ourselves, our goals and objectives to members of the public;
2. To explain the policies and powers of the OPA system;
3. To encourage citizen involvement in the complaint process through public education and awareness.

We attended our first community forum on police accountability at the Plymouth Congregational Church. Panelists included Chief Gil Kerlikowske, Judge Terrence Carroll and Rev. Leslie Braxton. This helped us begin to identify key community stakeholders whom we subsequently invited to a series of individual meetings (see Attachments #2 and #3).

A sampling of groups we have met with, to date, include: the American Civil Liberties Union, Urban League, Seattle Women's Commission, Seattle Human Rights Commission, People's Coalition for Justice, East African Police Advisory Committee, and several members of the Albuquerque, New Mexico, Police Accountability Commission. All the stakeholders contacted by the Board are listed in Attachment #4.

As we continue our community outreach efforts, we are developing initial criteria to evaluate the OPA's effectiveness. We intend to look at such factors as:

- availability of OPA brochures;
- public awareness of OPA services;
- language diversity of OPA brochures;
- ease or difficulty for citizens filing complaints against the police;
- time required to process complaints;
- satisfaction with result of OPA investigation.

The Board contacted the OPA Director and received her commitment to timely update the OPA website to inform the public about the Board's existence. The OPA website shall also include direct email links to each Board member.

Outreach with the Police

The Board wishes to understand the day-to-day operations and perspectives of SPD officers and to engage in meaningful dialogue. We recognize that the OPA system cannot work without collaboration between law enforcement officers and the community. Toward this end, we developed plans to better understand police operational philosophies and constraints.

Accordingly, the Board has met with the SPOG President and members of the SPOG Board of Directors, City Council, the OPA Director, the OPA Auditor and the Chief of Police. We appeared on "Beyond the Badge" in early May to introduce ourselves to the law enforcement community. We availed ourselves of every opportunity to talk with rank-and-file officers during six ride-alongs and three specialized police officer training courses. We have also participated in police training that has exposed us to many of the current issues impacting our police force. One of our members has been accepted into the next Community Police Academy. As we continue our fact finding, it is hoped that

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our growing information base will be utilized as a resource to enhance police accountability. (Attachment #5)

Self-Education

We conduct debriefings on every board activity so as to remain focused on our goals and objectives. We receive frequent reports from the National Association of Civilian Oversight of Law Enforcement (NACOLE), including access to the NACOLE web site. We have studied and analyzed Samuel Walker's impressive text, Police Accountability: The Role of Citizen Oversight (2000). We have reviewed the Standards of the Commission of Accreditation for Law Enforcement Agencies (CALEA). We have also reviewed Aitchison, The Rights of Law Enforcement Officers. We are currently researching the work of citizen review boards in selected other cities to gain perspective on how to incorporate best practices into the Seattle model. (Attachment #6)

III FUTURE PLANS

A. Monitoring OPA Processes

Our immediate focus shifts now to the Office of Professional Accountability in order to fulfill our mission of evaluating its effectiveness in responding to and dealing with citizen complaints. We envision this evaluation process as having two steps:

1. Ideally, the Board would like to review every OPA's case. Practical considerations, however, may modify this goal.
2. We are developing an initial checklist to enable us systematically to review the work of the OPA, guided by, but not limited to, the ordinance. We will focus on such things as quality and effectiveness of the following: intake; investigations; complaint classifications; and disposition of cases. Additionally, we will develop criteria to evaluate the OPA Director's and Auditor's reports.

B. Continuing Community Outreach

The Board's list of individual and group stakeholders is expanding. We are exploring ways to attend regular board meetings of various stakeholder organizations, where we can introduce ourselves and hear concerns from the organizational leadership. We are determining the most effective methods to reach out to the general public. We are considering periodic public forums or hearings in a variety of possible formats.

C. Continuing Education and Training

We will be attending the annual fall conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE) in Cambridge, Massachusetts. We are organizing site visits to selected cities with a variety of citizen accountability processes already in place. We will continue to participate in and observe law enforcement training and education sessions, and police ride-alongs. We are continuing our meetings with key stakeholders and will take advantage of educational opportunities as they become available.

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IV OBSERVATIONS

The Board takes seriously our mission to help strengthen the Seattle system of police accountability through its oversight of OPA. As we have explained, our thrust has been to build a foundation for long-lasting board operations. We have divided our time between developing effective operating procedures/policies, fact-finding, training and building the initial phases of community outreach. During the course of our work, we have made observations on a variety of topics that deserve highlighting and possible further research. While not exhaustive, they are presented in this report as a means to help maintain focus on our mission.

1) Review Board Powers

The principal mandate of the Review Board, per its founding ordinance, is to provide oversight and contribute to the effectiveness of the Office of Professional Accountability operations. Our initial observations lead us to believe that there is a serious constraint which limits the Board's powers to carry out its oversight duties effectively: the file redaction requirement.

Our central task under the ordinance, the review of completed OPA investigations, is hampered by the requirement that files have key information redacted prior to review by the Board. We believe that the redaction process is unnecessarily labor intensive, unproductive, and a practical impediment to our work. OPA resources appear to be insufficient to redact information from the current backlog of cases awaiting Board review. For example, staff reports that it took seven hours to redact the first four cases presented for the Board's review.

The redactions themselves, moreover, frustrate the Board's ability to review cases. For instance, cases involving numerous witnesses whose identities have been blacked out, are practically impossible to follow. Also, the redaction requirement seems unnecessary since every board member has signed a confidentiality agreement.

The Board further notes that review of redacted cases hampers the Board's ability to provide full reports to the community, since we lack access to ongoing cases. Finally, we observe that the Auditor's office, a pre-OPA position, has greater powers in its ability to review both ongoing and unredacted cases, than the newly constituted OPA Review Board. If nothing else, relaxing the restrictions placed upon the Board in reviewing cases should enhance the working relationship among the Director, the Auditor and the Board.

2) Review Board Resources

It is essential that the Board have a secure and dedicated working space to allow us to meet with stakeholders on various issues, and particularly to provide us an area in which we can review, discuss, and perhaps most importantly, safeguard confidential files.

In order to do the task the Board has been given – oversight of the OPA – we will require greater staff assistance. Our already heavy workload will continue to increase. Board members are already working at full capacity and have no reserves to respond to the increasing work ahead. Therefore, the continued viability of the Board is directly linked to an adequate staffing commitment from the city.

3) OPA Resources

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We are concerned about whether or not the Office of Professional Accountability has the ability to carry out its mission given its present resources. We are mindful of the current fiscal constraints facing the City of Seattle; however, we suggest that there are few investments which will have such broad impact on public confidence and officer morale as allocating sufficient resources to the OPA. Strengthening the resources of the OPA will send a loud message to the community that Seattle is committed to fair and effective police accountability.

Based on extensive interviews and discussions within SPD, the following issues surfaced relating to OPA resources:

- Sufficiency of time allotted for full and thorough investigations;
- Adequacy of physical space for the OPA investigations unit;
- Ratio of IIS investigators to the SPD force;
- Desirability of assignments to IIS;
- Range of accountability options.

4) SPD Morale

Based on a variety of small group and one-on-one conversations, the Board is concerned about what it observes as feelings of low morale among rank-and-file police officers. Officers cite lack of confidence in SPD command staff, remoteness from tactical decisions, and disciplinary actions taken by SPD leadership. Most distressingly, they express a sense of being scapegoated for actions taken or not taken at the top, and accountability double standards.

The Board is not presently in a position to judge the validity of these feelings, nor are we prepared to make recommendations to address these issues. However, we wish to convey our observation that such perceptions do indeed exist, and may be impeding a full sense of solidarity within the Department. The Board believes SPD command staff is equally concerned, and we stand ready to assist all parties in trying to resolve these issues.

5) Communications Gap

The Board perceives a serious communications gap between the citizenry and SPD regarding policy decisions and police operations. This lack of communication has perpetuated an air of resentment and fear in predominantly minority communities, often resulting in inaccurate perceptions of legitimate police operations. We also note the other side of the communications gap, i.e., police defensiveness and resentment that all their actions are minutely scrutinized and unfairly labeled "racist" at worst, "insensitive" at best.

Board members have participated in ride-alongs, police trainings, and candid discussions with police officers and members of the community. We feel much can be gained by small focus group discussions and a commitment by SPD to invest in educating the public about police operations. We recognize the excellent educational opportunities already afforded in the Community Police Academy and the various Police Advisory Committees throughout the City. These existing programs should be comprehensively reviewed and supplemented where necessary. This effort should be a concerted part of the management structure and institutionalized within the Department so that it is not construed as being insincere or only available during a crisis.

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We urge both community leaders and SPD training units to organize additional opportunities for citizens and rank and file officers to interact with one another. In this way, we believe that individual concerns will receive more attention. In our view, a positive, humanizing effect will result. The Board intends to take a leadership role in helping to strengthen communications lines between the police and the community.

6) Collective Bargaining

The Board takes note of the collective bargaining process now underway between the Seattle Police Officer's Guild and the City. The Board's primary mission is to enhance police accountability for both complainants and officers alike. Consequently, we welcome the opportunity to be a conduit for citizen input into the contract negotiations concerning points we raise in this report.

V POINTS OF INTEREST FOR POSSIBLE FUTURE RECOMMENDATIONS

For the months and years ahead, the Board has an expansive vision of our role and range of activities. We are currently researching a number of points of interest to be addressed as recommendations in the months ahead, including such topics as:

- Effective operating policies and procedures among the Board, the OPA Director and the OPA Auditor;
- Pros/cons of adding appellate review powers to the OPA Review Board;
- Implications of instituting mediation;
- Use of force issues, including the impact of the Garrity rule, within SPD
- Early Warning Systems within SPD.

This list is fluid; topics are not listed in order of priority. We are not committing ourselves to a review of every topic listed nor are we intending to restrict our work to those topics only. The entire field of police accountability is dynamic and we intend to be responsive and pro-active in any of the areas that arise in which our leadership can play a positive role. In future reports we intend to present our observations and, where appropriate, our policy recommendations on these issues.

Attachments

- 1) OPA Fact Sheet
- 2) Sample stakeholder invitation letters
- 3) List of all stakeholders invited
- 4) List of stakeholder meetings held
- 5) List of SPD ride-alongs and special training
- 6) List of referenced reports and related material